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CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES

Report of the Sixth Committee

Rapporteur: Ms. Pascaline BOUM (Cameroon)

I. INTRODUCTION

1. The item entitled "Convention on the law of the non-navigational uses of international watercourses" was included in the provisional agenda of the fifty-first session of the General Assembly pursuant to Assembly resolution 49/52 of 9 December 1994.

2. At its 3rd plenary meeting, on 20 September 1996, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In accordance with resolution 49/52, the Sixth Committee convened as a working group of the whole, open to States Members of the United Nations or members of specialized agencies, for three weeks from 7 to 25 October 1996, to elaborate a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission in the light of the written comments and observations of States and views expressed in the debate at the forty-ninth session.

4. For its consideration of the item, the Sixth Committee, convening as the Working Group of the Whole, had before it the draft articles adopted by the International Law Commission,[1] the report of the Secretary-General containing

[1] A/49/355 and Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/49/10), chap. III.D.

written comments and observations of States[2] and the topical summary prepared by the Secretariat containing views expressed in the Sixth Committee in the debate at the forty-ninth session of the General Assembly.[3]

5. The Sixth Committee, convening as the Working Group of the Whole considered the item at its 12th to 25th meetings, from 7 to 10, from 14 to 17 and on 25 October 1996, and drafted a report (A/C.6/51/L.3). The Committee considered the item at its 48th and 50th meetings, on 27 and 29 November 1996. The summary records of those meetings contain the views of the representatives who spoke during the consideration of the item (A/C.6/50/SR.12-25, 48 and 50).

II. CONSIDERATION OF DRAFT RESOLUTIONS A/C.6/51/L.4 AND L.16

6. At its 48th meeting, on 27 November, the Committee had before it a draft resolution entitled "Convention on the law of the non-navigational uses of international watercourses" (A/C.6/51/L.4), submitted by France and Egypt, which read:

"The General Assembly,

"Reaffirming that successful codification and progressive development of the rules of international law governing the non-navigational uses of international watercourses would assist in promoting and implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

"Taking into account the existence of bilateral or multilateral agreements governing the non-navigational uses of international watercourses, which should not be affected by the adoption of a new international instrument unless the parties to those agreements have otherwise decided,

"Also taking into account the fact that, despite the existence of a number of bilateral treaties and regional agreements, the use of international watercourses is still based in part on general principles and rules of customary law,

"Recalling its resolution 49/52 of 9 December 1994, by which it decided that the Sixth Committee should convene, at the beginning of the fifty-first session, as a Working Group of the Whole to elaborate a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission,

"Noting that some progress was achieved in the elaboration of the convention but that the Working Group was unable to complete its task,

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[2] A/51/275 and Corr.1 and Add.1-3.

[3] A/CN.4/464/Add.1, sect. C.

"1. Decides that, at the earliest possible date during the fifty-second session of the General Assembly, the Sixth Committee shall convene a second session of the Working Group of the Whole for a period of at least two weeks to complete the elaboration of a framework convention on the law of the non-navigational uses of international watercourses;

"2. Also decides that the Working Group of the Whole shall continue its work, during its second session, building on the work already carried out by the Drafting Committee and the Working Group, as reflected in their reports, including the oral report of the President of the Drafting Committee;

"3. Further decides to include in the provisional agenda of its fifty-second session an item entitled 'Framework convention on the law of the non-navigational uses of international watercourses'."

7. The Committee also had before it a draft resolution entitled "Convention on the law of the non-navigational uses of international watercourses" (A/C.6/51/L.5), submitted by Brazil, which read:

"The General Assembly,

"Reaffirming that successful codification and progressive development of the rules of international law governing the non-navigational uses of international watercourses would assist in promoting and implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

"Recalling its resolution 49/52 of 9 December 1994, by which it decided that the Sixth Committee should convene, at the beginning of the fifty-first session, as a Working Group of the Whole to elaborate a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission,

"Noting that some progress was achieved in the elaboration of the convention but that the Working Group was unable to complete its task,

"1. Decides that the Working Group of the Whole of the Sixth Committee shall convene again for a period of two weeks between 27 January and 7 February 1997 to complete the task assigned to it in resolution 49/52;

"2. Also decides that on the completion of its work the Working Group shall report directly to the General Assembly;

"3. Further decides that the provisions of paragraphs 4 and 5 of resolution 49/52 shall continue to apply, and that the methods of work and procedures outlined in the annex to the present resolution shall be followed.

"ANNEX

"Methods of work and procedures

"1. The Working Group of the Whole shall maintain its Drafting Committee, which shall only consider the provisions of the draft articles prepared by the International Law Commission that it was unable to consider in its previous meetings, namely, articles 7 and 33, as well as the draft preamble and the set of final clauses prepared by the Secretariat.

"2. The basic texts before the Working Group of the Whole shall be the articles worked out by the Drafting Committee contained in its report, and in the additional report presented pursuant to paragraph 1 above.

"3. The Working Group of the Whole shall endeavour to adopt all texts by general agreement. Failing such an agreement within a reasonable period of time, it will take its decisions in accordance with the rules of procedure of the General Assembly."

8. Also at the 48th meeting, a draft resolution entitled "Convention on the law of the non-navigational uses of international watercourses" (A/C.6/51/L.16) was introduced by the representative of Mexico, coordinator of the negotiations on that draft resolution, who announced that the sponsors of draft resolutions A/C.6/51/L.4 and A/C.6/51/L.5 would not press for action on those texts.

9. At the same meeting, the Committee adopted draft resolution A/C.6/51/L.16 without a vote (see para. 12).

10. At its 50th meeting, on 29 November, the Committee had before it a statement (A/C.6/51/L.24) of the programme budget implications of the draft resolution, prepared by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly.

11. The representative of the United States of America did not participate in the decision and made a statement in explanation of position (A/C.6/51/SR.50).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

12. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Convention on the law of the non-navigational uses of international watercourses

The General Assembly,

Bearing in mind Article 13, paragraph 1 (a), of the Charter of the United Nations,

Reaffirming its resolution 49/52 of 9 December 1994, by which it decided that the Sixth Committee should convene, at the beginning of the fifty-first session, as a working group of the whole to elaborate a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission,

Noting that some progress was achieved in the elaboration of the convention, but that the Working Group will need more time to complete its mandate,

1. Takes note of the report of the Working Group of the Whole;[4]

2. Decides to convene a second session of the Working Group of the Whole of the Sixth Committee, for a period of two weeks, from 24 March to 4 April 1997 to elaborate a framework convention on the law of the non-navigational uses of international watercourses;

3. Also decides that on the completion of its mandate the Working Group of the Whole shall report directly to the General Assembly;

4. Further decides that the provisions of paragraph 5 of resolution 49/52 shall continue to apply, and that the methods of work and procedures outlined in the annex to the present resolution shall be followed.

ANNEX

Methods of work and procedures

1. The Working Group of the Whole shall continue its work building on the work already carried out by the Drafting Committee and the Working Group as reflected in their reports,[5] including the oral report of the President of the Drafting Committee.[6]

2. The Working Group of the Whole shall maintain its Drafting Committee, which shall consider the provisions of the draft articles prepared by the International Law Commission that it was unable to consider in its previous meetings, as well as the draft preamble and the set of final clauses.

3. Other issues arising from the reports referred to in paragraph 1 of the present annex, including those between brackets and with footnotes, shall be discussed in the Working Group of the Whole. The Working Group of the Whole may decide to refer to the Drafting Committee aspects of drafting related to those issues.

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[4] A/C.6/51/L.3.

[5] A/C.6/51/NUW/WG/L.1 and Corr.1 and 2, Add.1, Add.2 and Corr.1, Add.3 and Corr.1 and Add.4; and A/C.6/51/L.3.

[6] A/C.6/51/SR.24.

4. The Working Group of the Whole shall endeavour to adopt all texts by general agreement. Failing such an agreement within a reasonable period of time, it will take its decisions in accordance with the rules of procedure of the General Assembly.